PHILIP MORRIS COMPANIES INC. INTER-OFFICE CORRESPONDENCE

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TO: Distribution

DATE: October 24, 1989

FROM: Murray H. Bring

RECEIVED

SUBJECT: Smoking and Health Litigation

OCT 25 1989

JOHN A. MURPHY

Attached hereto is an article that appears in the October 30, 1989, edition of The National Law Journal, relating to the smoking and health litigation. It contains a number of points that are worthy of note, as follows:

1. While a number of the leading plaintiffs' attorneys in the country have indicated a lack of interest in becoming involved in this litigation, a few are apparently considering doing so. Most prominent among them is Michael Ciresi of Minneapolis, who is one of the most pre-eminent plaintiffs' attorneys in the country. He successfully prosecuted a string of Dalkon Shield cases against A.H. Robins. He is the head of a large firm with considerable resources, and he has not been reluctant in the past to commit a significant portion of those resources to cases in which he becomes involved.

2. Another lawyer who is identified as a possible entrant into the field is Edward Garland of Atlanta. Mr. Garland is one of the attorneys representing our former employee, Roger de la Burde. Garland is described as an attorney who "may have a witness with considerable clout." We believe that de la Burde has been in touch with Daynard, and he continues to threaten cooperation with the plaintiffs' attorneys in our cases unless we settle his dispute with Philip Morris.

3. According to the article, the plaintiff's attorney in the Kotler case is soliciting former Surgeon General Koop to appear as a witness on his behalf. If he succeeds, Koop would presumably testify on the issue of addiction, which is the principal theory of the plaintiff's case. The article also indicates that Professor Alan Dershowitz of Harvard is helping to develop a litigation strategy for the plaintiff in Kotler on a pro bono basis. As you know, we are a defendant in Kotler, which is scheduled to go to trial on January 2.

4. Finally, our old "friend" Calvert Crary is quoted in the article as adhering to his belief that the plaintiffs will do better in future cases, particularly in view of recent appellate court decisions, which he does not specify.

The most encouraging thing about the article is a series of quotes from a number of leading members of the American Trial Lawyers Association, indicating their view that these cases do not present a high enough prospect of success for

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them to become involved. However, that is not a unanimous view of the senior ATLA membership, and the entry of Mr. Ciresi into the litigation would clearly be a negative development.

Attachment

Distribution
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